IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20401 of 2004

Between:

A.Srinivas Reddy, s/o Bhoom Reddy,
r/o Galipur Vg., Nizamsagar Mandal, Nizamabad District.

..... PETITIONER

AND

1 The Collector (Panchayat Wing), Nizamabad, Nizamabad District.
2 The Divisional Panchayat Officer, Bodhan, Nizamabad District.
3 The Extension Officer (PR& RD), Nizamsagar, Nizamabad District.
4 The Panchayat Secretary, Gram Panchayat,
Galipur, Nizamsagar Mandal, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction more in the nature of writ of certiorari call for the records relating to the impugned order passed by the first respondent vide No.473/2004-B5/Pts. dated 14-9-2004 and QUASH the same by duly declaring the order passed by the first respondent placing the petitioner under suspension for a period of 3 months with immediate effect by invoking the provisions under Sec.249(6) of A.P.Panchayat Raj Act, 1994 without specifically issuing any notice as contemplated under the first proviso to Sec.249(6) of the Act by way of substantive punishment without contemplating any further investigation or enquiry as illegal, arbitrary and contrary to Sec.249(6) of the A.P.Panchayat Raj Act, 1994 and also contrary to well settled principles of law laid down while adjudicating the issues which came for consideration before this Hon'ble Court arisen under Sec.249 of A.P.Panchayat Raj Act, 1994.

Counsel for the Petitioner:MR.V.RAVI KIRAN RAO

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj.

Petitioner, who is Sarpanch of Galipur Gram Panchayat, Nizamsagar Mandal, Nizamabad District, was served with show-cause notice dated 21.7.2004 by the Collector (Panchayat wing), Nizamabad informing that since the amounts specified therein and drawn by him were not properly accounted, the same is presumed to have been misutilised, and thereby called upon the petitioner to submit his explanation as to why he should not be removed from the office of Sarpanch. According to the petitioner, he has not submitted his explanation pursuant to the said show cause notice since his son fell ill during that particular period. By impugned order dated 14.9.2004 the petitioner was placed under suspension for a period of three months. Questioning the legality and validity of the impugned order, this writ petition is filed contending that the show-cause notice issued is for removal of the petitioner but not for suspension and in view of the same, suspending the petitioner for a period of three months is in violation of Section 249(6),which provides for issuance of prior notice for the proposed action.

Learned counsel for the petitioner contends that in the show-cause notice dated 21.7.2004 it is not mentioned that the petitioner will be suspended, but it is specifically mentioned why the petitioner should not be removed from the office of Sarpanch. Therefore, the impugned order suspending the petitioner from the office of Sarpanch without prior notice is in violation of principles of natural justice and contrary to the provision under Section 249(6) of the A.P. Panchayat Raj Act.

In the show-cause notice dated 21.7.2004 it has not been mentioned that whether the action proposed will be taken is under Section 249(1) or 249(6). In view of the same, the proposed action would be taken is under either of the sections. Be that as it may, since the petitioner has not submitted his explanation to the show cause notice for the alleged mis-appropriation of the funds and as he was placed under

suspension for taking appropriate action after due enquiry into the matter, if he aggrieved, it is open for him to avail the statutory remedy by way of filing an appeal before the Government under Section 264 of the A.P. Panchayat Raj Act assailing the correctness or otherwise of the impugned order passed by the first respondent. Hence, I see no grounds to entertain the writ petition.

Accordingly, the writ petition is dismissed. No costs.

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A. GOPAL REDDY. J.

5th November, 2004

tsr.

To

1 The Collector (Panchayat Wing), Nizamabad, Nizamabad District.
2 The Divisional Panchayat Officer, Bodhan, Nizamabad District.
3 The Extension Officer (PR& RD), Nizamsagar, Nizamabad District.
4 The Panchayat Secretary, Gram Panchayat,
Galipur, Nizamsagar Mandal, Nizamabad District.

5. Two C.C.s to Government Pleader for Panchayat Raj, High Court Buildings, Hyderabad.

6. Two C.D. copies.